



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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November 9, 2002

JAMES E. SPEED
Executive Director

NOTICE TO INTERESTED PARTIES:

No. 2001/078

**PENDING ACTION BY THE STATE BOARD OF EQUALIZATION ON
RULE 905 ASSESSMENT ELECTRIC GENERATION FACILITIES**

On October 24, 2001, the State Board of Equalization held a public hearing on proposed amendments to Property Tax Rule 905, Assessment Electric Generation Facilities. In response to public comment, the Board recommends that changes be made to the published version of the Rule. The changed Rule will be scheduled for adoption by the Board on November 28, 2001 at 1:30 a.m., or as soon thereafter as the matter may be heard, in Room 121, 450 N Street, Sacramento, California.

The changes were made to specify that the effective date of the rule for purposes of commencing state assessment of electric generation facilities is the lien date for the 2003 assessment year, January 1, 2003. These changes are indicated with double underscore and brackets ([]). A copy of the changed version of the rule is attached.

In accordance with Government Code Section 11346.8(c), the revised version of Rule 905 is being placed in the rulemaking file and mailed today to interested parties that commented orally, in writing, or that asked to be informed of such revisions. If you wish to review the rulemaking file, it is available for your inspection at the State Board of Equalization, 450 N Street, Sacramento, CA.

Questions regarding the substance of the proposed amendments to the Rule should be directed to Mr. Lawrence A. Augusta, Assistant Chief Counsel, telephone (916) 445-6493, fax (916) 323-3387, email Larry.Augusta@boe.ca.gov or P. O. Box 942879, 450 N Street, Sacramento, CA 94279-0082.

The Board will consider comments on the changed Rule if received by November 28, 2001. Written comments for the Board's consideration, notice of intent to present testimony or witnesses, and inquiries concerning the proposed administrative action should be directed to Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, email Diane.Olson@boe.ca.gov or to Joann Richmond, Property Taxes Analyst, telephone (916) 322-1931, email Joann.Richmond@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Joann Richmond, MIC: 80, P.O. Box 942879, Sacramento, CA 94279-0080.

Sincerely,

Deborah Pellegrini, Chief
Board Proceedings Division

DP:dgo
Attachment

Rule 905. ASSESSMENT OF ELECTRIC GENERATION FACILITIES.

905. (a) [Commencing with the assessment for the lien date for the 2003 assessment year, ~~an~~ ~~As~~] electric generation facility shall be state assessed property for purposes of article XIII, section 19 of the California Constitution if: (1) the facility has a generating capacity of 50 megawatts or more; and (2) is owned or used by a company which is an electrical corporation as defined in subdivisions (a) and (b) of section 218 of the Public Utilities Code; or, the facility is owned or used by a company which is a state assessee for reasons other than its ownership of the electric generation facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within two or more counties.

(b) "Electric generation facility" does not include a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§796(17), (18) and 824a-3) and the regulations adopted for those sections under that act by the Federal Energy Regulatory Commission (18 C.F.R. 292.101-292.602).

(c) For purposes of this section, "company" means:

- (1) A person as defined in Revenue and Taxation Code section 19;
- (2) A separate division or other functional unit of a business enterprise which is created and maintained to operate any electric generation facility,

where the business enterprise is engaged in a primary business other than generating, transmitting, distributing or selling electricity to the public.

(d) If an electric generation facility is operated by a separate division or other functional unit of a business enterprise, as described in this rule, the business enterprise must maintain accounting and other records sufficient to distinguish the costs and revenues of the separate division or unit from other divisions and units of the business enterprise.

[(e) As adopted on September 1, 1999 and effective November 27, 1999, this rule is applicable to define electric generation facilities subject to state assessment to and including December 30, 2002. As amended on November 28, 2001, this rule is applicable to define electric generation facilities subject to state assessment as of December 31, 2002 and thereafter.]

~~_(1) the facility was constructed pursuant to a certificate of public convenience and necessity issued by the California Public Utilities Commission to the company that presently owns the facility; or, (2) the company owning the facility is a state assessee for reasons other than its ownership of the generation facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within two or more counties.~~

Authority: Section 15606 (c) Government Code

Reference: California Constitution, article XIII, section 19; Sections 118, ~~and~~ 721 and 722.5, Revenue and Taxation Code.

h:property/drafts/augusta/905new6
revised: 10/30/01